



DOCKET NO.: 203772US6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 2131

Ryuji ISHIGURO, et al.

SERIAL NO: 09/641,312

EXAMINER: MOORTHY, ARAVIND K

FILED: August 18, 2000

FOR: TRANSMITTER DEVICE, TRANSMITTING METHOD, RECEIVER DEVICE,
RECEIVING METHOD, COMMUNICATION SYSTEM, AND PROGRAM
STORAGE MEDIUM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

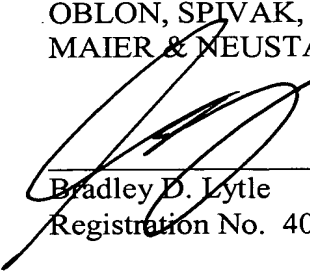
This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
RYUJI ISHIGURO, ET AL. : EXAMINER: MOORTHY, ARAVIND K
SERIAL NO: 09/641,312 :
FILED: AUGUST 18, 2000 : GROUP ART UNIT: 2131
FOR: TRANSMITTER DEVICE, :
TRANSMITTING METHOD, RECEIVER
DEVICE, RECEIVING METHOD,
COMMUNICATION SYSTEM, AND
PROGRAM STORAGE MEDIUM

REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants respectfully request that a Pre-Appeal Brief Conference be initiated in accordance with the pilot program outlined in the Official Gazette Notice of July 12, 2005.

Claims 1-11 are pending in the application.

In the Final Office Action of January 31, 2006 (hereinafter, "Final Office Action", Claims 1, 2 and 4-11 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ansell et al. (U.S. Patent No. 6,367,019, hereinafter, "Ansell"); and Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ansell, and further in view of Bernecker (U.S. Patent No. 5,435,599).

The Final Office Action asserts that Ansell teaches all the elements of independent Claims 1, 4-6 and 9-11. Applicants respectfully traverse this rejection.

Independent Claim 1 relates to a transmitter device that transmits content to a receiver device by accessing a recording medium that stores both the content and management data that is changed based on usage of the content. The transmitter device comprises:

storage means for storing a check value calculated on the basis of the management data;

communication means which, in authenticating of the receiver device, transmits the management data to the receiver device and ***receives a check value calculated on the basis of the management data and a check value calculated on the basis of management data changed based on the usage of the content from the receiver device;***

determination means for determining whether the check value of the management data received by the communication means matches the check value of the management data stored in the storage means; and

updater means for updating the check value of the management data stored in the storage means to the check value of the changed management data.

Claims 1, and 4-5 are directed to a transmitter; Claims 6 and 9-10 are directed to a receiver; and Claim 11 is directed to a system including both a transmitter and receiver for performing a cross authentication procedure, as discussed below. An exemplary, non-limiting embodiment of the claimed cross-authentication procedure was described in detail in the response of January 18, 2006.

Turning to the applied reference, Ansell describes a system in which data, such as a musical track, is stored as a secure portable track (SPT) which can be bound to one or more specific external players and a particular storage medium.¹ The system restricts playback of the SPT to specific external players and ensures that playback is only from the original storage medium.² Ansell also describes that the SPT can be exchanged between authorized devices, such as a portable player (150) and external player (150B), by exchanging an encryption key, a random number, and signature.³

¹ Ansell, col. 2, lines 6-10.

² Id., col. 2, lines 10-13.

³ Id., Figs. 5, 8A-8B and col. 9, line 58-col. 10, line 55.

Ansell, however, fails to teach or suggest a transmitter device which transmits management data to the receiver device and ***receives a check value calculated on the basis of the management data and a check value calculated on the basis of management data changed based on the usage of the content from the receiver device***, as recited in independent Claim 1.

In addressing the above-noted claimed feature, the Final Office Action relies on col. 9, line 58-col. 10, line 55 of Ansell. The cited portion of Ansell describes the process of exchanging the SPT between authorized devices such as the portable player (150) and the external player (150B), as described in the flow chart of Fig. 8. The portable player (150) initiates the exchange by sending a key exchange request message including a certificate corresponding to the portable player and a first random number. The external player (150B) responds by retrieving available keys and sending a reply message including the encrypted keys, the first random number, a second random number, and a certificate corresponding to the external player (150B). After the portable player (150) receives the reply message from the external player (150B) and performs authentication, it sends an exchange message including the encrypted keys, and the first and second random numbers. Thus, a series of exchanges of keys, random numbers and certificates is used to facilitate the exchange of data between the portable player and the external player.

However, none of the items exchanged between the portable player and the external player are related to ***a check value calculated on the basis of management data changed based on the usage of the content from the receiver device***. Instead, the cited portion of Ansell only describes the exchange of keys, random numbers, and certificates that are associated with the devices themselves and not associated with management information associated with any content.

The Advisory Action of April 12, 2006, in maintaining the rejection set forth in the Final Office Action, states that Ansell “teaches there are restrictions placed on the external player” and “some of the restrictions include maximum number of time an SPT can be played...” and that “these restrictions constitute the management data which would be changed.” However, as noted above, the restrictions described in Ansell are not used to form ***a check value calculated on the basis of management data changed based on the usage of the content from the receiver device***, which is exchanged between the devices for authentication purposed, as recited in independent Claim 1.

Specifically, col. 11, line 11-col. 12, line 29 describe the method by which Ansell’s system deals with restriction information placed on the SPTs. As described at col. 11, lines 11-18, the restriction information is stored in the header, and as described in Fig. 10, the restriction information is accessed after the above-mentioned authentication procedure between the devices. Thus, the restriction information is not used to form a check value that is exchanged between devices, whatsoever, but instead only describes how the restriction information is stored in the header of the SPT at the receiver. Further, Ansell fails to teach or suggest a process for changing the restriction data based on a usage of the content.

Thus, Ansell fails to teach or suggest a transmitter device which transmits management data to the receiver device and ***receives a check value calculated on the basis of the management data and a check value calculated on the basis of management data changed based on the usage of the content from the receiver device***, as recited in independent Claim 1.

Accordingly, Applicants respectfully request that the rejection of independent Claim 1 under 35 U.S.C. § 102(e) be withdrawn. For substantially similar reasons, Applicants submit that independent Claims 4-6 and 9-11 also patentably define over Ansell.

Application No. 09/641,312
Reply to Office Action of January 31, 2006

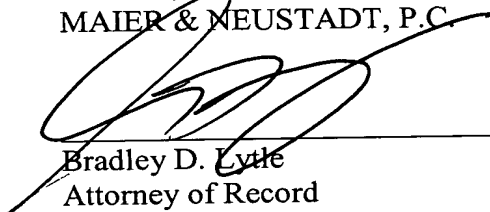
Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ansell in further view of Bernecker. As discussed above, Ansell fails to teach or suggest the above differentiated features recited in the pending independent claims. Likewise, Bernecker fails to remedy this deficiency, and therefore, none of the cited references, neither alone nor in combination teach or suggest Applicant's Claim 3, which includes the above distinguished features by virtue of dependency.

Accordingly, Applicants respectfully submit that pending Claims 1-11 patentably define over the applied references.

Based on the above-noted deficiencies in the outstanding rejections, Applicant respectfully requests that those rejections be withdrawn or properly supported.

Respectfully submitted,

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